

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

No. H-92-0177-05

PATRICIA LEBARON

MOVANT’S SUPPLEMENTAL AUTHORITY

In her motion for a reduction in sentence, Docket Entry No. 758, Patricia LeBaron cited the Fifth Circuit’s recent decision in *United States v. McMaryion*, 64 F.4th 257 (5th Cir. 2023), as holding that non-retroactive legislative changes in the statute of conviction could not serve as a basis for a finding of “extraordinary and compelling” reasons to justify a reduction in sentence under 18 U.S.C. § 3583(c)(1)(A). *See* Docket Entry No. 758 at 15, 19, 51.

On June 22, 2023, the Fifth Circuit withdrew its published opinion in *McMaryion*. In its place the Court substituted an unpublished opinion that reached a similar conclusion that claims based on non-retroactive legislative changes are not cognizable. *See McMaryion*, No. 21-50450, Slip op. (June 22, 2023) (attached) at 3-4. However, as an unpublished opinion, the decision in *McMaryion* is not

precedent except under doctrines applicable only to that case and/or its parties (res judicata, collateral estoppel and law of the case). *See* Fifth Cir. R. 47.5.4.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that today, June 22, 2023, the foregoing supplemental authority was served upon all counsel of record by notice of ECF filing, and by email upon AUSA Richard Haynes.

s/ Michael Herman

MICHAEL HERMAN